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7 United States of America

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA, *ex rel.*  
12 ANNA WELLS,

13 Plaintiffs,

14 v.

15 CR ASSOCIATES, INC. and DOES  
16 1-500, Inclusive,

17 Defendants.

Case No. 07CV1292-LAB (CAB)

UNITED STATES' NOTICE  
OF ELECTION TO DECLINE  
INTERVENTION

~~FILED UNDER SEAL~~

unsealed 4-24-08 apc

18 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the Court  
19 of its decision not to intervene in this action.

20 Although the United States declines to intervene, we respectfully refer the Court to Title 31  
21 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States;  
22 providing, however, that the "action may be dismissed only if the court and the Attorney General give  
23 written consent to the dismissal and their reasons for consenting." *Id.* The United States Court of  
24 Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States only has  
25 the right to a hearing when it objects to a settlement or dismissal of the action. U.S. ex rel. Green v.  
26 Northrop Corp., 59 F.3d 953, 959 (9th Cir. 1995); U.S. ex rel. Killingsworth v. Northrop Corp., 25 F.3d  
27 715, 723-25 (9th Cir. 1994). Therefore, the United States requests that, should either the relator or the

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apc 11

1 defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court provide  
2 the United States with notice and an opportunity to be heard before ruling or granting its approval.

3 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings  
4 filed in this action be served upon the United States; the United States also requests that orders issued  
5 by the Court be sent to the United States' counsel. The United States reserves its right to order any  
6 deposition transcripts and to intervene in this action, for good cause, at a later date. The United States  
7 also requests that it be served with all notices of appeal.

8 Finally, the United States requests that the relator's Complaint, this Notice, and the attached  
9 proposed Order be unsealed. The United States requests that all other papers on file in this action –  
10 more specifically the ex parte application, memorandum of points and authorities, declaration of  
11 counsel, and order regarding the United States' request for extension of the intervention determination  
12 deadline – remain under seal because in discussing the content and extent of the United States'  
13 investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating  
14 whether the seal and time for making an election to intervene should be extended. Likewise, for similar  
15 reasons related to the United States' intervention determination, the United States requests that Relator's  
16 Statement (Disclosures) remain under seal.

17 A proposed order accompanies this notice.

18 DATED: April 15, 2008

Respectfully submitted,

19 KAREN P. HEWITT  
20 United States Attorney

21   
22 JOSEPH P. PRICE, JR.  
23 Assistant United States Attorney

24 Attorneys for Plaintiff  
25 United States of America  
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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ex rel.  
ANNA WELLS,

Plaintiffs,

v.

CR ASSOCIATES, INC. and DOES,  
1-500, Inclusive,

Defendants.

Case No. 07cv1292-LAB (CAB)

**CERTIFICATE OF SERVICE  
BY MAIL**

**FILED UNDER SEAL**

I, Mary I. Apgar, am a citizen of the United States over the age of eighteen years and a resident of San Diego County, California. My business address is 880 Front Street, San Diego, California. I am not a party to the above-entitled action.

On April 15, 2008, I caused to be deposited in the United States mail at San Diego, California, in the above-entitled action, in an envelope bearing the requisite postage, a copy of:

(1) UNITED STATES' NOTICE OF ELECTION TO DECLINE INTERVENTION; and  
(2) [PROPOSED] ORDER

addressed to: Counsel for Relator:


(1) Mark I. Labaton  
KREINDLER & KREINDLER LLP  
707 Wilshire Boulevard, Suite 4100  
Los Angeles, CA 90017

(2) Hilary B. Taylor  
KREINDLER & KREINDLER LLP  
100 Park Avenue  
New York, NY 10017

(3) George A. Shohet  
LAW OFFICES OF GEORGE A. SHOHET  
245 Main Street, Suite 310  
Venice, CA 90291,

the last known addresses at which places there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 15<sup>th</sup> day of April, 2008.

  
MARY I. APGAR